

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 780

Z.C. CASE 95-12

(Text Amendment-Downtown Development District, Subsection 1706.13)
August 7, 1995

EMERGENCY ORDER

On August 7, 1995, the Zoning Commission for the District of Columbia considered a petition from the District of Columbia Office of Planning to amend, on an emergency basis, the text of Subsection 1706.13 of the Downtown Development District provisions of the Zoning Regulations, Title 11, District of Columbia Municipal (DCMR).

Subsection 1706.13 applies to mixed residential-commercial projects in the DDD, and requires the residential certificate of occupancy (C of O) to be issued concurrently with, or in advance of, the C of O for the commercial component of the project. The intent of the provision is to insure that the residential component is constructed in a timely fashion and is linked financially to the generally more profitable commercial development.

The petition requests an amendment to the text of Subsection 1706.13 that would allow for the issuance of a C of O for a portion of the commercial development prior to issuance of a C of O for the residential component under very specific circumstances. For the reasons set forth in this order, the Zoning Commission decided to effect emergency rulemaking to amend 11 DCMR 1706.13.

Whereas, by Z.C. Order No. 681 dated December 17, 1990, the Zoning Commission adopted amendments to the text of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning, and the Zoning Map of the District of Columbia to create and map the Downtown Development District Overlay; and

Whereas, one of the major policy objectives and goals of the Downtown Development District Overlay is to produce housing in the downtown area through Combined Lot Development; and

Whereas, a large, mixed use project under the jurisdiction of the Pennsylvania Avenue Development Corporation (PADC) is proposed as a combined lot development for the

Pennsylvania Quarter subarea of Downtown, and will include major new construction of a large apartment building, an office-retail component, and renovation and expansion of an existing office building; and

Whereas, the developer needs to proceed with the renovation project prior to the construction of the residential project so that an extended period of rent loss will not jeopardize the entire project, and therefore, the renovation project will need a C of O prior to the issuance of a C of O for the residential component; and

Whereas, the time period for saving this large and beneficial project is short, as the problem was only identified on July 27, 1995, and critical legal and financial milestone dates are imminent; and

Whereas, the major new construction components comply with 1706.13, in that construction of the apartment building is required by contract with PADC to begin by June 28, 1997 at the latest and construction of the office component would begin later; and

Whereas, the renovation project generates a residential requirement under DDD of only about 13,000 square feet; and

Whereas, the residential component of the combined lot development will provide approximately 249,000 square feet of gross floor area, approximately 235 dwelling units to the Downtown area; and

Whereas, the District of Columbia has strongly supported the project in its role on the PADC board of directors and the PADC design committee decision meetings; and

Whereas, the project will provide a major economic development benefit during a continuing period of real estate recession; and

Whereas, the apartment building in this project will be one of the three or four largest apartment buildings built in the District in the past 15 years and in a location where residential development is difficult to achieve and is accorded a high priority in the city's adopted plans and policies; and

Whereas, the text amendment is limited to PADC-controlled projects in which a contract with the developer requires construction of the residential component by a date

certain, and the applicability of the proposed text amendment is limited to situations where the great majority of the mixed use project is in compliance with the normal operation of Subsection 1706.13; and

Whereas, the Zoning Commission believes that the best interest of the District of Columbia is served by facilitating, whenever possible, the production of downtown housing units; and

Whereas, Section 5-413 of the D.C. Code establishes the authority of the Zoning Commission "to promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia"; and

Whereas, Section 1-1506 (c) of the D.C. Code authorizes the Zoning Commission to take emergency action for a period not to exceed 120 days "for the immediate preservation of public peace, health, safety, welfare or morals;

Now, Therefore, The Zoning Commission for the District of Columbia resolves that an emergency exists that requires an immediate amendment to the Zoning Regulations to protect the general welfare of the District of Columbia. It is therefore ORDERED that 11 DCMR Subsection 1706.13 be amended on an emergency basis as follows:

Amend Subsection 1706.13 to read as follows:

1706.13 If a development project includes both required residential uses and nonresidential uses, whether on the same lot or in a combined lot development, no Certificate of Occupancy shall be issued for the nonresidential space until a Certificate of Occupancy has been issued for the residential space; Provided, that:

(a) A mixed residential-commercial project for which the Pennsylvania Avenue Development Corporation and a private developer have executed a contract requiring commencement of construction of the residential portion of the project by a date certain, may comply with the timing requirements of Paragraph 1708.1(f) instead of the timing requirements of this subsection; and


(b) At least seventy-five percent (75%) of the commercial development that triggers the residential use requirement shall comply with the

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timing requirements of this subsection, i.e.,
Subsection 1706.13.

This amendment to the District of Columbia Municipal Regulations, Title 11, Zoning, shall take effect immediately and shall remain in effect for a period not to exceed 120 days, that is, from August 7, 1995 through December 5, 1995.

This emergency rulemaking was adopted by the Zoning Commission at the public meeting on August 7, 1995 by a vote of 4-0 (John G. Parsons, William L. Ensign, Maybelle Taylor Bennett, to adopt; Jerrily R. Kress to adopt by absentee vote).

Attested By: 
MADELIENE H. ROBINSON
Director
Office of Zoning

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